

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

ARI TEMAN,

Defendant.

19 Cr. 696 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

On January 24, 2024, the Court denied a motion for compassionate release by defendant Ari Teman, Dkt. 414, and on March 22, 2024, denied Teman's motion for reconsideration, Dkt. 434. Late on March 26, 2024, the Court received an email from Teman's parents, which the Court has attached to this order. The email expresses concern that a "new change" to dietary offerings at FCI Miami may aggravate Teman's gastrointestinal symptoms, leave him without foods that he can safely digest, and/or conflict with his ability to observe the upcoming (April 22–30) Passover holiday.

To the extent the parents' email seeks Teman's transfer to a halfway house or to home confinement, the Court denies that application, for multiple independent reasons:

- The parents do not have standing to move for Teman's compassionate release pursuant to 18 U.S.C. § 3582(c). A court may modify a term of imprisonment only upon a motion by the Director of the Bureau of Prisons or the defendant. 18 U.S.C. § 3582(c)(1)(A). Even if the parents' email were deemed to be by Teman, by statute, a defendant who moves for such relief must first exhaust all administrative remedies through the Bureau of Prisons, *id.* Teman has not done so with respect to the new grounds that the email articulates.

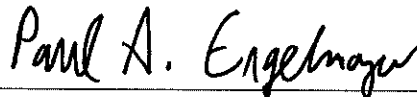
The Court thus would not have authority to grant Teman's release based on the parents' email.

- The Court has twice denied counseled motions for such relief by Teman, the latest less than a week ago, in each case explaining its reasons at length. The parents' email does not engage with the Court's considered explanations why (1) these motions failed to establish "extraordinary or compelling reasons" warranting Teman's release, as required by 18 U.S.C. § 3582(c)(1)(A), and (2) independently, Teman's early release from his below-Guidelines sentence would be incompatible with the 18 U.S.C. § 3553(a) factors, considered as a whole.
- The parents' email relies on representations related by Teman regarding his experiences, and his understandings about future dietary offerings, at FCI Miami. Teman's track record as a reporter of fact, however, does not inspire confidence. Teman's underlying wire and bank fraud offenses involved creating bogus checks and scheming by multiple means to mislead a financial institution to believe that his security-business customers had authorized the checks he had unilaterally drawn on their accounts. And Teman's representations seeking relief from the Court during his prosecution and imprisonment have been repeatedly marked by misplaced claims of victimhood and victimization and by unsubstantiated, hyperbolic, and self-serving representations of fact. Teman's account as related by his parents, in other words, cannot be assumed to be accurate.
- Even if the parents' concerns about FCI Miami's dietary offerings were substantiated, such that the facts established a risk to Teman's health, that would not mean that "such risk cannot be adequately mitigated in a timely manner" by the staff at FCI Miami, as would be required for compassionate release. *See* U.S.S.G. § 1B1.13(b)(1)(C).

The Court does, however, agree with the parents that—if the dietary offerings at FCI Miami are likely to be incompatible with Teman’s medical needs or the dietary requirements of his faith during Passover—action would be in order to prevent those circumstances from arising. The Court accordingly directs the United States Attorney’s Office for this District promptly to contact responsible officials at the Bureau of Prisons, to assure that these needs will be met. The Court further asks that the United States Attorney’s Office then file a letter on the docket of this case reporting what it has learned, and its factual basis for any conclusion that FCI Miami is on track to meet Teman’s dietary medical and religious needs.

As with its February 27, 2024 order, prompted by Teman’s claim of a medical emergency, the Court will also personally furnish a copy of this order to a BOP regional counsel to ensure that FCI Miami is responsive to the Court’s concerns.

SO ORDERED.

A handwritten signature in black ink, reading "Paul A. Engelmayer", is written over a horizontal line.

PAUL A. ENGELMAYER
United States District Judge

Dated: March 28, 2024
New York, New York

Engelmayer NYSD Chambers

From: D Teman
Sent: Tuesday, March 26, 2024 3:38 PM
To: Engelmayer NYSD Chambers
Cc: suzan teman; Eden Quainton; Jacob.Gutwillig@usdoj.gov
Subject: Request to transfer Ari Teman to Home Confinement or Halfway House based on new health challenge
Attachments: Request to transfer Ari Teman to Home Confinement or Halfway House.pdf

CAUTION - EXTERNAL:

Your Honor,

We respectfully submit our attached, personal letter and ask you to please recommend to the Board of Prisons the transfer of our son, Ari Teman, to home confinement or otherwise to the halfway house because of his health needs, including information we learned earlier today that severely constrains his already limited, available diet and places him in even greater suffering than we had anticipated recently.

Thank you for your gracious consideration and courtesies.

Respectfully,
Suzan and David Teman

CAUTION - EXTERNAL EMAIL: This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.

March 26, 2024

The Honorable Judge Paul Engelmayer
Southern District of New York

Your Honor,

This morning, we learned of a new change at FCI Miami Low, described below, that will cause Ari even greater suffering for most of the remaining term than we anticipated even recently.

We respectfully and earnestly ask Your Honor to please recommend to the BOP immediate transfer of Ari to home confinement or otherwise to the halfway house, where he can serve the remainder of his sentence while attending to his increasing medical and dietary needs.

Dr. Harrison, MD documented [Dkt 433 and attached] Ari's long history of gastrointestinal illness: "Mr. Teman has a history of gastrointestinal sensitivity to a number of foods, with pyrosis, abdominal pain, and irregular bowel habits when his diet is suboptimal." ... "With respect to his diet, I would recommend evaluation by a gastroenterologist if symptoms are significant."

From the day of surrender until now, Ari has depended for the limited foods that he can tolerate on purchases from the commissary of items that are kosher, lactose-free, and wheat free. One time after eating a seemingly safe prison meal, he was shot with steroids due to the reaction.

We learned today that the prison is closing the commissary for two weeks for inventory, and has already dwindled the supplies that Ari depends on. After the two weeks and then restocking, it will be Passover, with even greater wheat and lactose challenges. For the next 4-5 weeks, Ari will have a difficult time finding even a minimum of kosher, lactose-free, non-wheat foods, increasing his hunger and increasing his already frequent physical pain.

We ask Your Honor to please understand that Ari truly has been in pain – despite an apparently mistaken assertion that claimed Ari reported at the hospital (during the urological exam that Your Honor was gracious to help occur) that he was not in pain on February 27. As we read in Ari's messages over CorrLinks:

Tuesday, February 27, 2024 11:06 AM - morning of day he was later taken to the hospital: "I walked past Medical at 10:47am and asked if I could come anyway and she (T.H.) said "No. It's a recall. Go back to your unit." ... "I really need to get to a urologist and get an MRI because it doesn't just feel painful, it feels very strange. There is no urologist or MRI here and they can't even get you into a doctor appointment b/c of security issues."

Wednesday, February 28, 2024 7:19 AM – early morning after the hospital: "They took me in chains (and a "black box", ouch!) to Larkin Hospital"... "I had to stand a bunch b/c of the pain". ... "because in 41 years I've never felt such pain and certainly not for a month, and it doesn't seem to get better. ... Last night the nurse gave me 800mg of Ibuprofen, which is more than I usually take (200mg every 2-4 hours), and within 30 minutes the pain was back to a 6/10 and later to 7/10"

Also, Ari has been seeking medical care at the infirmary many times (as, for example, noted in the February 27 message above). The assertion that he recently declined x-rays is also inaccurate, as he did take the first three x-rays and then heeded the suggestion of the x-ray technician, Mr. Blavette, advised "pausing" the rest for being both excessive radiation and useless in diagnosing the issues he suffered. That recommendation was corroborated by Dr. Harrison [Id]: "I would not recommend proceeding with any additional "x-ray" imaging, as these would be of negligible value and result in radiation exposure which is not harmless."

Ari has had multiple falls and near-falls, has been given steroids and ibuprofen for pain, and has been visibly ill. COs and SIS brought Ari in to medical on a stretcher and ambulance cart twice. Ari's visible illness was documented by Gadson and credited by the Government: "the Government credits the letter of Mr. Gadson appended to the Quainton Declaration." [Dkt 426 p 4]

We do not think this is what Your Honor had in mind in recommending his sentence to the FCI Miami Camp. We humbly entreat you to issue a recommendation for the prison to grant Ari home confinement or otherwise transfer to the halfway house – to attend to medical needs and avoid the severe hunger and pain he is otherwise facing.

Thank you,

The block contains two handwritten signatures in black ink. The signature on the left is 'David Teman' and the signature on the right is 'Suzan Teman'. Both are written in a cursive, flowing style.

Suzan and David Teman